

OFFICE OF THE ATTORNEY GENERAL



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Honorable Samuel L. Russell
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Juveniles - Juvenile
Delinquency - Leaving the
Scene of an Accident -
Juvenile Courts -
Jurisdiction - Prisons and
Prisoners

Violations of Code of Alabama
1975, §§ 32-10-1 through
32-10-5 are traffic offenses
and, as such, if committed by
one sixteen years of age or
older are not delinquent acts
within the jurisdiction of
the juvenile court.

Dear Mr. Russell:

We have received your request for an opinion from this
office.

QUESTION

Is leaving the scene of an accident
with injuries (§ 32-10-6), if committed
by a sixteen year old, a delinquent act
(§ 12-15-1(8)) for which a juvenile
petition is to be issued, or is it a
traffic offense of which juvenile court
does not have jurisdiction?

FACTS AND ANALYSIS

Code of Alabama 1975, § 12-15-30(a) provides that, "The juvenile court shall exercise exclusive original jurisdiction of proceedings in which a child is alleged to be delinquent"

Code of Alabama 1975, § 12-15-1(8) as amended by Act No. 93-256 defines "delinquent act" as, "An act committed by a child that is designated a violation, misdemeanor or felony offense under the law of this state or of another state if the act occurred in another state or under federal law or a violation of a municipal ordinance. Provided, that the term shall not include traffic offenses committed by one 16 years of age or older, other than those charged pursuant to Section 32-5A-191 or a municipal ordinance prohibiting the same conduct. . . ."

Code of Alabama 1975, § 32-10-6 provides that, "Every person convicted of violating sections 32-10-1 through 32-10-5 or any of the provisions thereof, when such violation involved only damage to property, shall be punished the same as prescribed by law for a Class A misdemeanor; provided, however, that every person convicted of violating such section, or any provisions thereof, when such violation involved death or personal injury, shall be punished the same as prescribed by law for a Class C felony."

Section 12-15-1(8), set out above, excludes from the definition of a "delinquent act" traffic offenses committed by persons 16 years old or older. Clearly, the failure of a driver of a motor vehicle to perform one of the duties of drivers of motor vehicles involved in accidents is a "traffic offense" as that term is used in Code of Alabama 1975, § 12-15-1(8).

You should note that Acts of Alabama Act No. 94-481 was signed by Governor Folsom and took effect on April 14, 1994. Act No. 94-481, now codified at Code of Alabama 1975, § 12-15-34.1, provides that any person who has attained the age of 16 years at the time of the conduct charged shall be charged, arrested and tried as an adult if charged with the commission of any act or conduct constituting a felony which has an element thereof the causing of death or serious physical injury. Section 32-10-6, Code of Alabama 1975, makes violations of Sections 32-10-1 through 32-10-5, Code of Alabama 1975, punishable as felonies if said violations involve death or personal injury or other offenses listed in the

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Act. Act No. 94-481 applies to all cases in which the alleged criminal conduct occurred after the Act's effective date, and directs that persons 16 years of age or older be arrested, charged and tried as adults when an element of the felony offense is the causing of death or serious physical injury.


CONCLUSION

A violation of Code of Alabama 1975, §§ 32-10-1 through 32-10-5 is a traffic offense and when committed by one 16 years of age or older is not a delinquent act within the jurisdiction of the juvenile court. When the violation of Code of Alabama 1975, §§ 32-10-1 through 32-10-5 involves the causing of death or serious physical injury, then § 12-15-34.1, Code, directs that any person age 16 years or older who is so charged, shall be charged, arrested and tried as an adult.

I hope this sufficiently answers your question. If our office can be of further assistance, please contact Stephen K. Simpson, Legal Division, Department of Human Resources.

Sincerely,

JEFF SESSIONS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

JS:JRS/SSM

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